

FILED
U.S. DISTRICT COURT
DISTRICT OF WYOMING

2019 AUG 20 AM 10:16

UNITED STATES DISTRICT COURT
DISTRICT OF WYOMING

STEPHEN J. HARNSCLERK
Clerk
CHEYENNE

UNITED STATES OF AMERICA,

Plaintiff,

v.

ROBERT JOHN FAY,

Defendant.

CRIMINAL COMPLAINT

Case Number: 19-MJ-695

I, the undersigned complainant, being duly sworn, state the following is true and correct to the best of my knowledge and belief.

COUNT ONE

On or about December 24, 2017, in the District of Wyoming, the Defendant, **ROBERT JOHN FAY**, did knowingly ship and transport child pornography, as defined by Title 18, United States Code, Section 2256(8), using a means and facility of interstate commerce, namely, the Internet and a cellular telephone network.

In violation of 18 U.S.C. §§ 2252A(a)(1) and (b)(1).

COUNT TWO

On or between February 18, 2017 through and including August 17, 2018, in the District of Wyoming, the Defendant, **ROBERT JOHN FAY**, did knowingly possess material which contains images of child pornography, as defined in Title 18, United States Code, Section 2256(8)(A), that involve prepubescent minors, and which had been shipped and transported using a means and facility of interstate commerce, namely, the Defendant possessed and was in control of a Dropbox remote storage account that contained digital images of child pornography which had been shipped and transported in interstate commerce by means of the Internet, a computer and a cellular telephone network.

In violation of 18 U.S.C. §§ 2252A(a)(5)(B) and (b)(2).

I further state that I am a Special Agent with the Homeland Security Investigations (HSI) and that this complaint is based on the following facts:

(See attached Sworn Statement)

Continued on the attached sheet and made a part hereof.

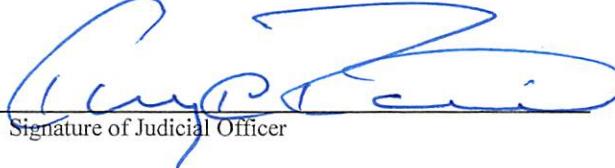


Signature of Complainant
NICOLE D. BAILEY

Sworn to before me and subscribed telephonically,

August 20, 2019 at Cheyenne, Wyoming
Date City and State

HON. KELLY H. RANKIN
Magistrate Judge, United States
District Court
Name & Title of Judicial Officer



Signature of Judicial Officer

**SWORN STATEMENT OF SPECIAL AGENT NICOLE D. BAILEY
IN SUPPORT OF A CRIMINAL COMPLAINT**

UNITED STATES v. ROBERT JOHN FAY

I, Special Agent Nicole D. Bailey, being first duly sworn upon my oath, do state as follows:

1. I, Nicole D. Bailey, am a Special Agent with U.S. Immigration and Customs Enforcement (ICE), Homeland Security Investigations (HSI), and have been employed by HSI as such since May 2003.

2. I successfully completed eleven weeks of Criminal Investigator Training at the Federal Law Enforcement Training Center. In addition, I completed eleven weeks of Special Agent Training with ICE Homeland Security Investigations (HSI). In 2014, I graduated from Basic Computer Evidence Recovery Training at the Federal Law Enforcement Training Center and I am designated by HSI as a Computer Forensic Agent. I also attended Undercover Agent training school at the Federal Law Enforcement Training Center and was certified as an undercover agent with HSI. As an agent with HSI, I have been trained in investigations of various Federal criminal laws, including narcotics, firearms, child pornography, and immigration investigations.

3. On June 28, 2019, I received an investigative lead forwarded to me by the Commander of the Montana Internet Crimes Against Children (ICAC) Task Force regarding a child pornography investigation involving the user of a Dropbox account whom they believed was located in Gillette, Wyoming. I reviewed the information provided by Agent Gary Seder with the Montana Division of Criminal Investigation (MT DCI) and learned the following:

4. On or about October 8, 2018, MT ICAC received a CyberTipline Report from the National Center for Missing and Exploited Children (NCMEC). The report number is 41433257. The report was generated by Dropbox. This was in reference to someone uploading and storing

child pornography on a Dropbox account. The following information was provided related to the user of the reported account:

Email Address: rfay5345@gmail.com
Screen/User Name: Robert Fay
ESP User ID: 503554211

5. Dropbox reported seven (7) video files that were identified that contain contraband. Dropbox further indicated that these files were publicly available and were viewed by Dropbox prior to the cybertip submission. I viewed the files and I believe six (6) depict children engaged in sexually explicit conduct. One video file depicts an age-difficult female masturbating. Dropbox also provided a log file which contained the Dropbox activity. The log activity indicates that these files have been in this account since April 2016. The following is a description of one of the files being reported:

File Name: IMG_0761 (1).mp4. Description: This video depicts a pubescent female performing oral sex on a prepubescent male.

6. Dropbox also provided a list of various Internet protocol (IP) addresses utilized to log into the above referenced account from May 2018 through August 2018. Based on the above information, Montana FBI served a subpoena to Verizon Wireless for any subscriber information related to the account holder utilizing three different IP addresses used to access the Dropbox account.

7. In March 2019, Verizon provided a response for the subpoena issued by Montana FBI. I reviewed the response and spoke to an analyst on the Verizon Legal Compliance Response Team, and learned the following:

8. On May 16, 2018, at 10:41 UTC, IP address 2600:100e:b01b:fflf:c969:e62f :lb19:e212, which was used to log into the above referenced Dropbox account, was allocated to the Verizon account: (406)223-6950, Robert Fay, 114 W. Redwood, Gillette, Wyoming.

9. On July 22, 2018 at 03:02 UTC, IP address 2600:100e:b:004:bl66:6824:6fb6:la5c:6794, which was used to log into the above referenced Dropbox account, was allocated to Verizon account: (307)359-3692, BigHorn Construction, Contact Dede ECKENROD, 63 Maple Drive, Douglas, Wyoming.

10. On August 9, 2018, at 10:23 UTC, IP address 2600:100e:b108:3fc:d88c:88e9:1def:53c4, which was used to log into the above referenced Dropbox account, was allocated to Verizon account: (307)359-3692, BigHorn Construction, Contact Dede ECKENROD, 63 Maple Drive, Douglas, Wyoming.

11. I conducted public Internet searches and located a 32 year old male named **Robert FAY** who was listed in the Gillette, Wyoming newspaper on December 20, 2018 after being arrested on a contempt of court/bench warrant.

12. I reviewed the other information provided by MT ICAC and learned the email address rfay5345@gmail.com was associated with a **Robert FAY** with a P.O. Box in Baker, Montana. Public Internet searches indicate this **Robert FAY** is also 32 years old.

13. On or about July 11, 2019, United States Magistrate Judge Kelly Rankin issued three federal search warrants, and on July 15, 2019, I served the following warrants upon the respective service providers:

- Search warrant to Google for account content of rfay5345@gmail.com (19SM129-R);
- Search warrant to Dropbox for account content of account identified as rfay5345@gmail.com (19SM128-R);

-Search warrant to Verizon Wireless for historical cell site location information for the phone numbers (406) 223-6950 and (307) 359-3692 (19SM127-R).

14. On or about July 26, 2019, I received the return from Dropbox, Inc. pursuant to the search warrant referenced above. The return came via UPS on an encrypted USB thumb drive. I utilized a forensic tool to process and review the contents of the Drobox return, which contained over 15,000 image and video files. I identified over 400 video files and more than 2,000 image files as depicting child pornography.

15. I reviewed a file entitled "File activity.xls" provided by Dropbox. This file details the dates and times the files contained within the Dropbox account were added, deleted, moved and/or mounted, as well as the location of these files within the account. This document contained over 8,000 entries of files within this account. I noted the first file uploaded to the account occurred on or about April 9, 2016. The last files were added to the account on or about December 24, 2017.

16. I located the following file entitled "VID-20170510-WA0024.mp4" which was uploaded to the account on or about December 24, 2017 at 17:38:58 GMT. The file was added to the following location within the Dropbox account: /Root/Videos CP/VID-20170510-WA0024.mp4. I noted the video is approximately 2 minutes, 50 seconds in length and depicts a collage of various sexual abuse of a young prepubescent blonde female. Within the video, the child is ejaculated upon while lying naked on a bed and later, made to perform oral sex on an adult penis while wearing a tiger striped hat and nose mask. I recognized this video from previous child pornography investigations.

17. I located the following file entitled "VID-20170608-WA00023.mp4" which was uploaded to the account on or about December 24, 2017 at 17:54:54 GMT. The file was added to the following location within the Dropbox account: /Root/Videos CP (1)/VID-20170608-WA0023.mp4. I noted this video is approximately 1 minute, 58 seconds in length and is described as follows: A dark

haired early pubescent female performs oral sex and digitally penetrates the vagina of a young prepubescent female with reddish blonde hair.

18. In total, on or about December 24, 2017, this user uploaded seven (7) video files of child pornography and 188 images and videos identified as child erotica/age difficult child pornography.

19. I noted that Dropbox provided information indicating that from approximately May 2016 until September 2018, this user paid for an upgraded Dropbox account. Dropbox provided the last four digits of the credit card number used for payment as "9200".

20. On or about July 26, 2019, I received the contents, via download from a secure law enforcement portal, from Google, Inc. pursuant to the search warrant referenced above. I extracted the contents of the zipped files provided by Google and used a forensic tool to review the email and media content provided by Google. I marked 131 emails of the approximately 18,930 emails as relevant to this investigation. I located the following emails relevant to the identification of the user of the Google account rfay5345@gmail.com, which I believe is **Robert John FAY XX/XX/1986, XXX-XX-8345:**

- Email dated December 29, 2016 from this account that appears to be a response to a craigslist ad for employment. Within the body of the email, FAY states that his name is **Robert FAY** and he recently moved back home to Montana after being in Jacksonville nc [sic].
- Email dated February 4, 2017 from this account with an attachment entitled "W2 Robert fay.pdf". I viewed the W-2 and noted the employee, **Robert J. FAY**, social security number XXX-XX-5345, with an address in Jacksonville, North Carolina.
- An email dated March 29, 2017 from this account with the subject "Interest in job posting #5953664" where FAY provided the phone number 406-223-6950.
- An email dated April 22, 2017 from "weldingoutfitter.com" to this account confirming a product order. According to the email, the products were to be shipped to: **Robert FAY, 4412 Dakota Street, Apt 3, Gillette, Wyoming 82718.** This is also the billing address.

- Numerous emails in 2017 from this account responding to craigslist personal ads wherein **FAY** describes himself as "Rob" from Gillette, Wyoming. He states that he is 30 years old, 5'10" and approximately 150 lbs. Further, **FAY** attaches images of himself.
- An email thread dated January 5, 2018, between **FAY** and the email address "Ezkratom@gmail.com". Based on the thread, **FAY** had ordered a product from this company and they needed to confirm his shipping address. **FAY** confirmed the address as 116 Rosewood, Gillette, Wyoming.
- An email dated September 23, 2018 to this account confirming the order of "23 and me" ancestry DNA package. Within the email, **FAY** provides his billing address as 4412 Dakota Street, Gillette, Wyoming, and the last four digits of his billed credit card as 9200.
- Numerous emails from "Green Dot" Visa detailing the balance of the account ending in 9200.
- Emails from Verizon Wireless detailing billing payments where **FAY** paid for this account using the credit card ending in 9200.
- An email dated July 11, 2019, from UPS informing **FAY** that a package is scheduled to be delivered to him at 114 W. Redwood Street, Gillette, Wyoming.
- An email dated July 13, 2019 from "Crossdresser Heaven" notifying **FAY** that his account (Reha Roberts rfay5345@gmail.com) has been cancelled.

21. I reviewed the photographs within the Google account and compared them with the driver's license images of suspect **Robert FAY** and believe they depict the same individual. I did not locate any images of child pornography. I located numerous images of **FAY** engaged in sexually explicit conduct, many of which include his face. I also located a picture depicting **Robert FAY**'s North Carolina driver's license and the credit card ending in 9200, which is the same ending numbers as the card used to pay for the Dropbox account.

22. I reviewed the information contained within "location history" file provided by Google. This document contains any location information related to this account (**FAY**), whether the location record is from cellular tower location information, Wi-Fi location information or GPS. Specifically, I reviewed location history information for the dates February 18, 2017, December 24, 2017, February 11, 2018, August 14, 2018 and August 17, 2018. I reviewed these dates since these

dates matched Dropbox account activity. I noted that for all of the above referenced dates, Google identified that this user was located within the Gillette, Wyoming area in the District of Wyoming.

23. I reviewed the last location history information provided by Google and noted that on July 14, 2019, this account's GPS coordinates placed FAY on the east half of the duplex located at 114 West Redwood Street, Gillette, Wyoming.

24. Based on the above information, I believe that on December 24, 2017, in the District of Wyoming, Robert FAY transported files of child pornography through the Internet to his Dropbox cloud storage account.

25. Further, I believe that on or between April 9, 2016 until the termination of the Dropbox account in October 2018, and specifically on the dates FAY logged into his account on February 18, 2017, December 24, 2017, February 11, 2018, August 14, 2018 and August 17, 2018, in the District of Wyoming, Robert FAY possessed numerous images and videos of child pornography.

END OF SWORN STATEMENT

PENALTY SUMMARY

DEFENDANT NAME: ROBERT JOHN FAY

DATE: August 20, 2019

INTERPRETER NEEDED: No

VICTIM(S): Yes

OFFENSE/PENALTIES:

Count 1: **18 U.S.C. §§ 2252A(a)(1) and (b)(1)**
(Transportation of Child Pornography)

5-20 Years Imprisonment
Up to \$250,000 Fine
5 Years to Life Supervised Release
\$100 Special Assessment
\$5,000 Special Assessment Pursuant to the Victims of Sex Trafficking Act of 2015

Count 2: **18 U.S.C. §§ 2252A(a)(5)(B) and (b)(2)**
(Possession of Child Pornography)

0-20 Years Imprisonment
Up to \$250,000 Fine
5 Years to Life Supervised Release
\$100 Special Assessment
\$5,000 Special Assessment Pursuant to the Victims of Sex Trafficking Act of 2015

TOTALS: 5-40 Years Imprisonment
Up to \$500,000 Fine
10 Years to Life Supervised Release
\$200 Special Assessment
\$10,000 Special Assessment Pursuant to the Victims of Sex Trafficking Act of 2015

AGENT: Nicole Bailey, HSI

AUSA: Stephanie A. Hambrick
Assistant United States Attorney

Penalty Summary

August 20, 2019

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RE: Robert John Fay

ESTIMATED TIME OF TRIAL: 1 to 5 days

WILL THE GOVERNMENT SEEK DETENTION IN THIS CASE: Yes

ARE THERE DETAINERS FROM OTHER JURISDICTIONS: No